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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,524	10/04/2001	Richard Kroczek	7853-240	8232
20583	7590	10/20/2003	EXAMINER	
PENNIE AND EDMONDS 1155 AVENUE OF THE AMERICAS NEW YORK, NY 100362711			ROARK, JESSICA E	
			ART UNIT	PAPER NUMBER

1644

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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09/972 524

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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1647

0903

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**Commissioner for Patents**

Applicant's preliminary amendments filed 10/4/2001, 5/17/2002 and 9/3/2003 are acknowledged. Claims 1-52, 54 and 59 have been cancelled.

Claims 53 and 55-58, as amended 9/3/2003, are pending and under consideration.

All claims are allowable. However, due to a potential interference, *ex parte* prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

*The following is made of record:*

**A) Restriction Requirement:**

As noted on the Interview Summary dated August 30, 2003, the Examiner imposed the following Restriction Requirement in a phone call placed to Applicant's Representative:

Group I. Original claims 53-59, drawn to a method of treating asthma by administering an 8F4 polypeptide, classified in Class 424, subclass 185.1.

Group II. Original claims 53-59, drawn to a method of treating asthma by administering an antibody to an 8F4 polypeptide, classified in Class 424, subclass 144.1.

Groups I and II are different methods. The methods differ with respect to ingredients and method steps; therefore, each method is patentably distinct.

These inventions are distinct for the reasons given above. In addition, they have acquired a separate status in the art as shown by their different classification. Further, a different field of search would be required based upon the structurally distinct products recited such that the prior art search would not be completely co-extensive. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.

During the telephone conversation with Muna Abu-Shaar on August 30, 2003 a provisional election was made with traverse to prosecute the invention of Group II, claims 53-59.

Applicant filed a preliminary amendment on September 3, 2003 limiting the claims to the elected invention.

B) Reasons for Indicating Allowable Claims:

It is noted that the instant claims appear to be allowable essentially for the reasons of record in parent application USSN 09/509,283 and in view of the Declaration under 37 CFR 1.132 of Dr. KroczeK filed 10/4/2001 which provides evidence of enablement.

It is also noted that others teach the treatment of asthma using inhibitors of signaling by ICOS, which is the current name in the art for the 8F4 polypeptide. See US2002/0164697 (Coyle et al.), especially regarding the h1228 polypeptide of SEQ ID NO:12, paragraphs 274-279 and claim 19; and WO200046240A (Yoshinaga et al.), especially regarding the CRP1 polypeptide and its ligand B7RP1 and the application of antagonists for treating asthma at page 68. However, neither US2002/0164697 nor WO200046240A has an effective filing date that is earlier than that of the instant claims; therefore, neither US2002/0164697 nor WO200046240A is available as prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Roark, whose telephone number is (703) 605-1209. The examiner can normally be reached Monday to Friday from 8:00 to 4:30. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached at (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 872-9306.

Jessica Roark, Ph.D.  
Patent Examiner  
Technology Center 1600  
October 15, 2003

Attachments: PTO892 and references cited, initialed copy of PTO1449, Interview Summary.

PHILLIP GAMBEL  
PHILLIP GAMBEL, PH.D  
PRIMARY EXAMINER  
TECH CENTER 1600  
10/15/03